



14 NYCRR PART 860

PROPOSED NEW PART 860

Recovery Residence

860.1 Background.

This Part establishes requirements for recovery residences certified by the Office of Addiction Services and Supports (“OASAS” or “the Office”) for the purpose of providing a shared living environment that promotes sustained recovery from a substance use disorder or problem gambling. These settings emphasize developing mutual support and skills for people in recovery that will enable them to lead fulfilling lives in the community. Certification is voluntary and encouraged to build the New York State continuum of recovery supports and to emphasize the importance of recovery residences as an essential service.

860.2 Legal Base.

- (a) Section 19.09(b) of the Mental Hygiene Law (MHL) authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations necessary and proper to implement any matter under his or her jurisdiction.
- (b) Section 32.05-a of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations necessary to issue operating certificates for recovery residences.
- (c) Section 32.01 of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt any regulation reasonably necessary to implement and effectively exercise the powers and perform the duties conferred by article 32 of the MHL.
- (d) Section 32.06 of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt any regulation necessary to effectuate the provisions of section 32.06 of the MHL which prohibit certain financial practices by providers of substance use disorder services.
- (e) Section 32.07(a) of the MHL authorizes the Commissioner of the Office of Addiction Services and Supports to adopt regulations to effectuate the provisions and purposes of article 32 of the MHL.

860.3 Applicability.

- (a) This Part applies to any recovery residence certified by the Office pursuant to this Part to provide housing for individuals recovering from a substance use disorder or problem gambling.
- (b) Certification pursuant to this Part is voluntary and is not required for recovery residences to provide housing that supports recovery. However, only those recovery residences that are certified pursuant to this Part may hold themselves out to be a “Certified Recovery Residence” and be listed by the Office as a Certified Recovery Residence.

860.4 Definitions.

- (a) “Certified recovery residence” means a shared living environment in the state that utilizes connections to community services to promote sustained recovery from substance use and/or problem gambling and is a public or private organization responsible for the administration and delivery of recovery housing, including supportive services such as care management and other recovery supports that has been certified pursuant to this Part.
- (b) “Facility” means the physical location in which ongoing, structured, and systematic recovery housing and services are delivered.
- (c) “Harm reduction” is a set of practical strategies and ideas aimed at reducing the negative consequences associated with substance use.
- (d) “Naloxone emergency overdose prevention kit” means a kit as prescribed pursuant to state law and is used to reverse an opioid overdose.
- (e) “Occupant” means an individual who legally resides in a certified recovery residence while working to improve their health and wellness, live a self-directed life, and strives to reach their full potential.
- (f) “Person-centered care” is a collaborative care approach to individualized interventions resulting in the development of recovery plan goals and service provision that is respectful of the occupant’s needs and choices. It is guided by them and produced in partnership with care providers for treatment and recovery. Person and family-centered care planning is strength-based and focuses on individual capacities, preferences, and goals. It supports the individuals’ preferences, is recovery oriented, and is developed within the professional responsibilities of providers and care teams.
- (g) “Program” for the purposes of this Part means a location, residence, or facility certified as a recovery residence.
- (h) “Recovery housing” means housing for individuals recovering from substance use disorder or problem gambling that provides a substance-free living environment and offers peer support, assistance with obtaining substance use disorder support services, and other recovery wellness supports
- (i) “Staff” for the purposes of this Part means full time and part time employees, as well as student interns, peers, and volunteers.

860.5 General provisions applicable to all certified recovery residences.

- (a) Policies and procedures. The program governing authority must approve written policies, procedures, and methods governing the provision of services to occupants in compliance with Office regulations including a description of each service provided. Such policies, procedures, and methods shall reflect nationally and locally recognized best practices for oversight of a certified recovery residence. These policies, procedures, and methods must address, at a minimum:
 - (1) acceptance into the residence and the completion or termination of residence, including referral procedures;
 - (2) staffing, including, but not limited to, training and use of student interns, peers and volunteers, and compliance with the criminal history review policies of Part 805 of this Title;
 - (3) a schedule of fees;
 - (4) management of all funds received and expended;

- (5) maintenance of facilities;
 - (6) encouraging and monitoring occupant recovery;
 - (7) incident reporting in accordance with Part 836 of this Title and any corresponding guidance issued by the Office;
 - (8) confidentiality consistent with state and federal laws, rules, and regulations;
 - (9) procedures for emergencies;
 - (10) ensuring an occupant's school-aged children are provided with appropriate educational services when applicable;
 - (11) occupant rights and responsibilities;
 - (12) prohibition on sharing prescription medication; and
 - (13) description of the onsite interventions to ensure the safety of an occupant who is intoxicated, in withdrawal, or experiencing an overdose, including procedures for having an occupant transported to an emergency department for a medical evaluation.
- (b) Emergency medical kit.
- (1) All programs must maintain an emergency medical kit at each certified location; such kit must include basic first aid and naloxone emergency overdose prevention kits in a quantity sufficient to meet the needs of the program. Programs must develop and implement a plan to have all staff and occupants trained in the use of a naloxone overdose prevention kit such that it is available for use during all hours of operation.
 - (2) All staff and occupants should be notified of the existence and location of the naloxone overdose prevention kits.
 - (3) All programs shall comply with any additional overdose prevention and intervention guidance released by the Office.
- (c) Certified capacity. The certified bed capacity of each certified recovery residence may not be exceeded at any time without the express authorization of the Office and in accordance with the following exceptions:
- (1) in cases of emergency and unexpected surges in demand where no alternative options are available;
 - (2) failure to temporarily accept individuals into the program would jeopardize their immediate health and safety;
 - (3) where the excess of capacity would be time-limited; and
 - (4) at the discretion of the Office.
- (d) The provider shall develop and implement written policies and procedures on the use of prescription and over-the-counter medications by occupants, which must include:
- (1) Emergency procedures for medication overuse, incorrect medication use, or an adverse medication reaction that occurs on premises.
 - (2) Self-administration of medication for occupants who take medication.
 - (3) Safe storage of medication and medical supplies in a locked container.
- (e) The certified recovery residence shall develop and implement written policies and procedures for an individual's occupancy which shall include, but not be limited to:
- (1) Occupant eligibility criteria.
 - (2) Guidance for completion of occupancy by meeting an occupant's recovery, personal or financial goals, or social-emotional or other needs.
 - (3) Criteria for terminating occupancy, including an occupant's right to appeal any decision to terminate occupancy and procedures for such process, consistent with the provisions of Part 815 of this Title and New York State Real Property Actions and Proceedings Law.

- (4) Prohibition against denying access to a certified recovery residence based solely on admission criteria not required by law or statute in accordance with the provisions of Part 815 of this Title.
 - (5) Ensure access to medication for addiction treatment (MAT).
 - (6) Ensure the availability of safe and secure storage options for occupants' medication(s) and medical supplies.
- (f) Written financial obligations
- (1) The certified recovery residence provider shall develop and implement written policies and procedures to maintain a complete record of collection of fees, payments, and deposits between the certified provider and the occupant in accordance with standard accounting practices. The record must include:
 - (i) All fee deposits, occupant fees, and other monetary transactions between the recovery house and the occupant.
 - (ii) Documentation that the recovery house returned all deposits due to the occupant when the occupant departed the certified recovery house, signed, and dated by the certified recovery residence provider and occupant.
- (g) The certified recovery residence provider shall develop and implement written policies and procedures that prohibit the certified recovery residence provider or staff of the certified recovery house from:
- (1) Requiring an occupant to sign a document relinquishing the occupant's public assistance benefits, including medical assistance benefits, cash assistance, Supplemental Security Income, and Supplemental Nutrition Assistance Program benefits.
 - (2) Requiring an occupant to surrender cash or sign over a payment.
 - (3) Borrowing money from an occupant or lending money to an occupant.
 - (4) Buying property from an occupant or selling property to an occupant.
 - (5) Directly or indirectly soliciting or accepting a commission, fee, or anything of monetary or material value from occupants, other related individuals, third-party entities, or referral sources, beyond specified rent established in writing at the time of residency.
- (h) A certified recovery residence provider shall not assist in managing the occupant's finances.
- (i) Certified recovery residences shall develop and implement written policies and procedures for managing grievances from occupants, family members, and community members, which must include procedures for informing occupants, family members, and community members of the complaint process, including the ability to file a complaint with the Office.

860.6 Staffing.

- (a) All certified recovery residences shall have a residence manager who is responsible for the management of the certified recovery residence, including staff. The residence manager shall have at least three years of full-time experience either: 1) in the recovery residence field or 2) related substance use disorder and housing fields, prior to appointment as residence manager. The certified recovery residence manager shall receive training annually in the following subject areas:
- (1) Recovery skills
 - (2) Emotional Intelligence
 - (3) Conflict resolution/De-escalation techniques
 - (4) Appropriate boundaries
 - (5) Peer supervision
 - (6) Expectations for supporting/developing peer leadership and occupant-to-occupant peer support

- (b) General staffing shall be on-site or on-call sufficient to meet the emergent needs of the occupants.
- (c) Volunteers, peers, or interns. A certified recovery residence may utilize volunteers, peers, or interns, on a salaried or non-salaried basis if such volunteers, peers, or interns are provided supervision by full-time staff and necessary didactic education from both internal and external sources.
- (d) All staff who will have the potential for, or may be permitted, regular and substantial unsupervised or unrestricted contact with occupants are subject to criminal history reviews consistent with Part 805 of this Title.
- (e) All staff shall be trained *at least* annually in the following subject matter areas:
 - (1) Training on overdose prevention and intervention, naloxone and naloxone administration.
 - (2) First aid training.
 - (3) Cardiopulmonary resuscitation (CPR) certification.
 - (4) HIV, hepatitis viruses, tuberculosis, and sexually transmitted infections training using an Office approved curriculum.
 - (5) Fire prevention and emergency preparedness, including use of a fire extinguisher.
 - (6) Trauma-Informed Care.
 - (7) Harm Reduction.
 - (8) The provision of culturally responsive and linguistically appropriate services.
 - (9) Infection Control Practices (universal precautions, use of hand hygiene, etc.).

860.7 Supporting Occupants who Return to Substance Use.

- (a) Occupants are expected to reside within and comply with the terms established by the recovery residence around living within a substance free environment (excluding medications lawfully prescribed or dispensed). However, certified recovery residences are expected to be prepared to provide support for occupants who return to substance use.
- (b) Certified recovery residences shall establish linkage agreements with community-based substance use disorder treatment programs to facilitate referral to treatment and other services as needed.
- (c) If the certified recovery residence becomes aware of an occupant's return to substance use, the residence shall immediately provide:
 - (1) Peer support for the occupant, both immediate and ongoing;
 - (2) Access to emergency medical care if needed; and
 - (3) Referral for assessment to determine possible treatment needs.

860.8 Safety and Housing Standards.

- (a) Facilities shall, at minimum, meet all requirements of multiple dwellings imposed by applicable laws, including Multiple Dwelling Law, Multiple Residence Law, and Real Property Actions and Proceedings Law.
- (b) In addition, all facilities shall comply with the requirements of Part 814 of this Title. For the purposes of Part 814 compliance, certified recovery residences shall be deemed residential facilities, however, certified recovery residences shall be exempt from the same requirements of section 814.4(c) as supportive living facilities.
- (c) In addition, all facilities shall meet the following requirements unless federal, state, or local laws or codes provide for stricter standards:
 - (1) Have common areas large enough to support group meetings and occupant committees
 - (2) Make entertainment and recreational spaces, kitchens, and bathrooms open to all staff, occupants, and their guests

- (3) Occupants shall have:
 - (i) Personal, private, and secure storage space
 - (ii) Access at all times to food, safe and hygienic food storage space, and a kitchen
 - (iii) Access to laundry facilities
- (4) Lock boxes for the storage of medication by occupants.
- (d) Certified recovery homes shall promote a safe and healthy environment. To support a safe and healthy environment, certified recovery homes shall:
 - (1) Provide a substance free environment (excluding medications lawfully prescribed or dispensed);
 - (2) Create a safety plan and ensure occupants and staff are trained on emergency procedures;
 - (3) ensure access to MAT;
 - (4) ensure the availability of safe, secure storage options for occupants' medication(s) and medical supplies;
 - (5) Identify and have linkage agreements to facilitate referral to supportive treatments, physical health care, mental health care, social services, harm reduction services, and other services available in the community;
 - (6) Collect emergency contact information;
 - (7) Provide for regular, optional meetings of occupants for recovery support.

860.9 Occupant Rights and Obligations

Occupants of certified recovery homes shall retain rights as established in an occupancy agreement, or equivalent document, in accordance with applicable New York State law(s), including but not limited to the New York State Real Property Actions and Proceedings Law.

- (a) Certified recovery residences are required to provide occupants with:
 - (1) an occupancy agreement, or equivalent document;
 - (2) copies of all documents signed by the occupant;
 - (3) copies of all policies and procedures related to occupant behavior and expectations;
 - (4) access to all other policies and procedures of the certified recovery residence;
 - (5) a residence that is safe, sanitary, and habitable.
- (b) Certified recovery residences shall establish occupant governance structures to allow occupants reasonable involvement in the governance and management of the certified recovery residence.
- (c) Occupants shall have the right to access healthcare and social support services, including substance use disorder treatment services (to include medication for addiction treatment), from the provider of their choosing. The certified recovery residence may not require an individual to attend or prohibit the individual from attending a specific substance use disorder treatment program or taking medications lawfully prescribed or dispensed.
- (d) Occupants agree to reside in an environment that is free from alcohol and illicit controlled substances. If the occupant returns to substance use, they shall collaborate with the certified recovery residence staff to develop a person-centered safety plan.

860.10 Terminating Residency.

(a) Occupants may only be removed from possession of a dwelling at a provider's facility consistent with their occupancy agreement or similar document, the New York State Real Property Actions and Proceedings Law, and/or any other applicable laws and regulations.

- (1) Providers may only move to terminate residency of an occupant if the occupancy agreement has terminated. If terminating the occupancy agreement earlier, proper written notice as defined by New York State Real Property Actions and Proceedings Law must be provided. An occupancy agreement cannot be terminated for the following reasons:
 - (i) Return to substance use, unless treatment engaged pursuant to 860.7 of this Part does not assist the occupant in substance use cessation;
 - (ii) Engaging in substance use disorder treatment, including the utilization of medication for addiction treatment;
 - (ii) Making use of, or administering, an opioid antagonist to reverse an opioid overdose.
- (b) If terminating occupancy will result in an occupant becoming unhoused or unstably housed, the provider shall not terminate occupancy until a reasonable time passes to allow the individual to identify alternative living arrangements except in the following situations:
 - (1) The occupant intentionally causes significant damage to the property;
 - (2) The occupant persistently and unreasonably engages in behavior that substantially infringes on the rights of other occupants;
 - (3) The occupant persistently and unreasonably engages in behavior that substantially interferes with the functioning of the certified recovery residence; or
 - (4) The occupant represents a substantial safety hazard to others.

860.11 Certification.

- (a) Recovery residences certified pursuant to this Part shall comply with the requirements of this Title, including Part 810, unless specifically exempted.
- (b) Requests for certification by recovery residences shall be in the form of a written application, which shall include the application materials identified in the Recovery Residence Standards. Such application shall be submitted to both the Office's Bureau of Certification and the appropriate Regional Office serving the area in which the applicant is located. Office staff may make an onsite visit to the program prior to certifying the recovery residence.
- (c) Failure to maintain minimum standards for this certification may result in disciplinary action in accordance with the provisions of this Title.
- (d) Certification in accordance with the provisions of this Part is voluntary. A recovery residence that is not certified may not hold itself out as a "Certified Recovery Residence", shall not be listed as such by the Office, and shall not be eligible for any funding opportunities offered by the Office.
- (e) The Office shall maintain a list of certified recovery residences and post the list on the Office's website.
- (f) The Office may only list certified recovery residences on its website.

860.12 Severability.

If any provision of this Part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Part which can be given effect without the invalid provisions or applications, and to this end the provisions of this Part are declared to be severable.



**Office of Addiction
Services and Supports**

OASAS. Every Step of the Way.

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